

*Cosey T*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

12 EAST 12 ASSOCIATES, LP,

Plaintiff,

vs.

WHISTLER TREE, INC. d/b/a GOTHAM 50  
BAR AND RESTAURANT, and JOHN DOES I  
to X,

Defendants.

USDC SDNY
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CASE NO.: 11 Civ. 2969 (DLC)(AJP)

**STIPULATED ORDER AND STAY OF PROCEEDINGS**

**WHEREAS**, plaintiff, the owner of the restaurant Gotham Bar and Grill, located in downtown Manhattan, filed the complaint in this action on May 2, 2011, alleging that defendants' use of the name GOTHAM 50 in connection with its restaurant, located in midtown Manhattan, constituted trademark infringement, trademark dilution and unfair competition under the Lanham Act and New York law; and

**WHEREAS**, on May 6, 2011, this Court granted plaintiff a temporary restraining order (the "TRO") that, among other things, enjoined defendants from using the names GOTHAM and GOTHAM 50 in connection with their restaurant, and from using the domain name [www.gotham50.com](http://www.gotham50.com) (the "Accused Domain Name"), and scheduled an evidentiary hearing on plaintiff's motion for preliminary injunction for May 23, 2011; and

**WHEREAS**, on or about May 7, 2011, defendants opened their restaurant under the name "G-50 Bar and Grill," and currently host the web site for their restaurant at the domain name, [www.g-50nyc.com](http://www.g-50nyc.com), (the "G-50 Web Site"); and

**WHEREAS**, the parties are engaged in good faith settlement negotiations and have reported that they have executed an agreement in which, among other things, the parties agreed jointly to request that the Court stay all proceedings in this matter for ninety (90) days and extend and modify the TRO as set forth below; it is hereby

**ORDERED**, that all proceedings and obligations of the parties in this matter, including without limitation (i) the parties' obligation to mediate before Magistrate Judge Peck, (ii) defendants' obligation to answer or otherwise respond to the complaint, and (iii) plaintiff's motion for preliminary injunction, are stayed until August 15, 2011; and it is further

**ORDERED**, that the TRO is hereby extended with mutual consent of the parties until the date the Court rules on any preliminary injunction motion that may be decided after conclusion of the stay; and it is further

**ORDERED**, that the TRO is hereby modified with mutual consent of the parties to permit defendants to use the Accused Domain Name solely for the purpose of redirecting internet traffic to the G-50 Web Site, and that the TRO otherwise remains in force as written; and it is further

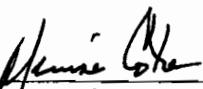
**ORDERED**, that, in the event this dispute is not settled by August 7, 2011, counsel for the parties shall promptly contact Magistrate Judge Peck's chambers for the purpose of scheduling a mediation in this matter at the earliest possible date. If the parties fail to consummate a settlement after the conference with the Magistrate Judge, the parties will promptly contact the Court about reinstating the civil action, setting a schedule with respect to plaintiff's motion for preliminary injunction and the parties' pre-trial obligations; and it is further

**ORDERED**, that this order and the parties' consent to the terms of this Stipulated Order and Stay of Proceedings shall not prejudice any party, or constitute a waiver of any rights, claims or defenses.

Dated: New York, New York  
May 17, 2011

*A copy of this letter is due  
August 7, 2011.*

SO ORDERED:

  
Hon. Denise L. Cote

United States District Judge

*May 18, 2011*

Consented to by the Parties this 17<sup>th</sup> day of May, 2011:

For Plaintiff,

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For Defendants,

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